BOMBAY ACT No. XVI OF 1920[1].

[THE BOMBAY TOWN PLANNING (SECOND AMENDMENT) ACT, 1920.]

[*13th December, 1920.*]

An Act further to amend the Bombay Town Planning Act, 1915.

WHEREAS it is expedient further to amend the [2]Bombay Town Planning Act, 1915, in manner hereinafter appearing; It is hereby enacted as follows :— Bom. Act I of 1915.

Short title. **1.** This Act may be called the Bombay Town Planning (Second Amendment) Act, 1920.

New section 45A. **2.** After section 45 of the [2]Bombay Town Planning Act, 1915, the following section shall be inserted :— Bom. Act I of 1915.

[*Supra.*]

BOMBAY ACT No. XVII OF 1920[3].

[THE BOMBAY PLEADERS ACT, 1920.]

[*13th December, 1920.*]

An Act to consolidate and amend the Law relating to pleaders in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to pleaders in the presidency of Bombay; and whereas the previous sanction of the Governor General required by section 79, sub-section (2), of the Government of India Act, 1915, has been obtained for the passing of this Act; It is hereby enacted as follows :— 5 & 6 Geo. 5, c 61.

Short title and extent. **1.** (*1*) This Act may be called the Bombay Pleaders Act, 1920.

(2) It extends to the whole of the presidency of Bombay except Sind and Aden.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "the High Court", means the High Court of Judicature at Bombay;

---

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1920, Pt. V, p. 408; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 752, and for Proceedings in Council, *see ibid*, 1920, Pt. V, pp. 648 and 970.

[2] *Supra.*

[3] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1920, Pt. V, p. 402; for Report of Select Committee, *see ibid*, 1920, Pt. V, page 794 (*a*), and for Proceedings in Council, *see ibid*, 1920, Pt. V, pp. 671 and 971.

(2) "court subordinate to the High Court" means any court, tribunal, or person whose decree, order, decision or award is, or may hereafter be, subject to the appellate or revisional jurisdiction of the High Court;

(3) "pleader" means a pleader admitted under this or any previous Act, and includes an attorney of the High Court appearing, leading or acting for a client elsewhere than in the City of Bombay, but nothing in sections 3, 4, 5, 6, 11, 12, 13, 24, 25, 27, or 30 shall apply to an attorney of the High Court;

(4) "district" means the local limits of the jurisdiction of a principal civil court of original jurisdiction other than the High Court;

(5) "the Letters Patent" means the Amended Letters Patent of the High Court of Judicature for the presidency of Bombay, dated the 28th December 1865, subject to any amendments thereto and alterations therein made or hereinafter to be made pursuant to clause 44 thereof or section 106 (1A) of the Government of India Act;

(6) "prescribed" means prescribed by rules made under this Act.

Classes of pleaders.

3. Pleaders admitted by the High Court under this Act shall be of two classes, namely, vakils of the High Court and district pleaders.

Sanads.

4. (1) The High Court shall issue to every pleader on his admission a sanad in form A or form B in Schedule II, as the case may be, or in such other form as the High Court may prescribe.

(2) In the case of the sanad of a district pleader, the name of the district for which the sanad is available shall be specified therein.

Extent and transfer of sanads.

5. (1) No district pleader shall hold a sanad in respect of more than one district at the same time.

(2) On the application of a district pleader holding a sanad which is available for any one district the High Court may from time to time, by endorsement on such sanad, render the same available for any other district.

(3) A pleader holding a sanad in respect of any district may appear, plead and act for a client in any particular civil proceeding in a Court of any other district with the previous written authority of the District Judge in such other district.

Conditions of admission.

6. (1) Any person who is duly qualified and is of good moral character and is not in Government service shall be entitled to be admitted as a pleader.

(2) The number of pleaders shall not be limited.

(3) If a pleader after obtaining a sanad accepts Government service, he shall not be entitled to practise whilst in such service, even if he be on leave.

Where vakils of High Court are entitled to practise.

7. (*1*) Subject to the provisions of any law for the time being in force and, with respect to the right of vakils of the High Court to practise in the High Court, subject to any rules for the time being in force under clause 10 of the Letters Patent, a vakil of the High Court shall be entitled to practise—

(*a*) in the High Court;

(*b*) in any court subordinate to the High Court;

(*c*) before the tribunal of appeal constituted under the [1]City of Bombay Improvement Act, 1898; Bom. Act IV of 1898.

(*d*) in or before any other court, tribunal or person in or before which or whom vakils of the High Court are or may hereafter be entitled by law to practise; and

(*e*) before any public officers in any of the following proceedings:—

an investigation held in accordance with the first paragraph of section 73 and on appeal under section 77 of the [2]Bombay Hereditary Offices Act; Bom. Act III of 1874.

proceedings under section 87 of the [2]Bombay Land Revenue Code, 1879; Bom. Act V of 1879.

proceedings before a Tribunal of Arbitration under the Bombay Town Planning Act, 1915; Bom. Act I of 1915.

such proceedings under any enactment in force in the Bombay Presidency as the local Government, by notification in the Bombay Government Gazette may specify.

(*2*) The provisions of sub-section (*1*) shall apply, *mutatis mutandis*, to attorneys of the High Court.

Where district pleaders are entitled to practise.

8. Subject to the provisions of any law for the time being in force, a district pleader shall, within the district in respect of which he holds a sanad, be entitled to practise—

(*a*) in such civil court or courts as the District Judge may from time to time assign to him;

(*b*) in any criminal court;

(*c*) in or before any other court, tribunal or person in or before which or whom district pleaders are or may hereafter be entitled by law to practise; and

(*d*) before any public officer in any of the following proceedings:—

an investigation held in accordance with the first paragraph of section 73 and an appeal under section 77 of the [2]Bombay Hereditary Offices Act; Bom. Act III of 1874.

---

[1] Vol. IV of this Code.
[2] Vol. II of this Code.
[3] *Supra.*

Bom. Act V of 1879. Bom. Act I of 1915.

proceedings under section 87 of the Bombay Land Revenue Code, 1879;

proceedings before a Tribunal of Arbitration under the [2]Bombay Town Planning Act, 1915;

such proceedings under any enactment in force in the Bombay Presidency as the local Government, by notification in the Bombay Government Gazette, may specify.

Appearance in civil court by unauthorized person forbidden.

9. No person shall appear, plead or act for any party in any civil proceeding in any court unless he is a pleader as defined in this Act and is entitled and duly empowered to appear, plead and act for such party in such proceeding:

Provided that nothing in this section shall apply—

(*a*) to any party appearing, pleading or acting on his own behalf, or appearing or acting by his recognized agent as defined in rule 2, Order III of the [3]Code of Civil Procedure, 1908, or V of 1908.

(*b*) to any advocate of the High Court.

Cases in which vakalatnama is required.

10. (*1*) Except as otherwise provided in this section, no pleader shall appear, plead or act for a party in any proceeding in any Court until he has obtained from such party and filed in court a vakalatnama in form C in Schedule II, or in such other form as the High Court may prescribe.

(*2*) It shall not be necessary for the following persons to obtain a vakalatnama for the purpose of appearing, pleading and acting in the capacities respectively mentioned hereunder:—

(*a*) a pleader appointed by a court to defend a person accused of a criminal offence, who has not sufficient means to enable him to employ a pleader;

(*b*) a pleader appointed by a court as *amicus curiæ*;

(*c*) a Government pleader;

(*d*) a public prosecutor, or a person permitted or empowered, under section 495 of the [4]Code of Criminal Procedure, 1898, to conduct a prosecution. V of 1898.

(*3*) Where a pleader has filed a vakalatnama at the original hearing of a proceeding, it shall not be necessary for him to obtain a fresh vakalatnama for the purpose of an application for review of judgment, or of an application under section 144 or section 152 of the [3]Code of Civil Procedure, 1908, or under order XLV in the First Schedule to the said Code, or for the purpose of an appeal under the Letters Patent. V of 1908.

---

[1] Vol. II of this Code.
[2] *Supra.*
[3] General Acts, Vol. VI.
[4] General Acts, Vol. V.

(*4*) When a pleader is prevented for any reason from appearing in any proceeding in which he has been retained, he may appoint another pleader to appear on his behalf and the hearing shall proceed unless the Court see reason to the contrary.

Retaining fee.

11. (*1*) A party engaging a pleader shall pay him a retaining fee of an amount not less than one rupee.

(*2*) Where a party fails so to do, the pleader shall demand such fee and shall not perform any services for such party until the fee has been paid.

(*3*) Every pleader receiving such fee shall give a receipt in writing for the same, specifying the date of receipt.

Pleader not to act for party adverse to his client, and not to refuse to act for his client without the permission of the Court.

12. No pleader after accepting a retaining fee shall without the permission of the Court—

(*a*) appear, plead or act, or agree so to do, on behalf of any other party whose interest in the case is adverse to that of his client, or

(*b*) refuse or omit to appear, plead or act for his client.

Receipt to be given for documents.

13. Every pleader receiving a document of any kind from his client shall—

(*a*) on demand give a receipt in writing for such document at the time when he receives it, and

(*b*) subject to the provisions of section 30 return such document if his client requires the same and gives a receipt in writing therefor.

Pleaders bound to attend on day fixed for proceeding except in certain cases.

14. (*1*) A pleader shall be bound to attend in court on any day which, by notice duly given or in accordance with the practice of the court, is fixed for the hearing of a proceeding in which he is employed.

(*2*) Where a pleader employed in any such proceeding is, from indisposition or any other reasonable cause, unable to attend on such day or at the time when the proceeding is called on, he shall notify the same to the court and thereupon the proceeding shall be stayed for such time as the court may deem reasonable:

Provided that in proceedings in which a party is represented by more than one pleader and one of such pleaders is present, the court may proceed therewith.

(*3*) In any proceeding in which a pleader ceases, temporarily or permanently, to act for his client, because he has accepted Government service, or has been permitted to withdraw from the proceeding, or has been suspended or dismissed, or has died, or for any other reason, the proceeding shall be stayed for such time as the court may deem reasonable.

Pleaders not to give or take commission.

15. No pleader shall tender, give, retain or consent to retain any gratification for procuring or having procured the employment of himself or of any other pleader in any legal business.

16. No pleader shall—

Pleaders not to take instructions except from client or authorized agent, or accept employment through a tout.

(*a*) take instructions in any proceeding except from the party on whose behalf he is retained or from some person who is, within the meaning of the [1]Code of Civil Procedure, 1908, the recognized agent of such party, or from some person authorized by such party to give such instruction, or

V. of 1908.

(*b*) accept any employment in any legal business through a person who has been proclaimed as a tout.

Fee may be settled by private agreement.

17. Any party employing a pleader may settle with him by private agreement the terms of his engagement and the fee to be paid to him for his professional services.

Computation of taxed fee.

18. (*1*) Where costs are awarded to a party in any proceeding, the amount of the pleader's fee to be taxed in the bill of costs as recoverable by such party, if represented by a pleader, from his adversary, shall be computed in accordance with the rules in Schedule III unless such fee has been settled under the provisions of section 17 for a lesser amount in which case no more than such lesser amount shall be recoverable.

(*2*) Nothing contained in sub-section (*1*) of this section or in section 20 shall apply to fees payable to pleaders in the Court of Small Causes of Bombay.

Amount payable by client to pleader.

19. (*1*) A pleader shall be entitled to recover from his client the fee, if any, settled under section 17.

(*2*) Where no fee has been settled under section 17, the pleader shall be entitled to receive from his client a fee computed in accordance with the rules in Schedule III and any further fees which may be allowed on taxation between pleader and client in pursuance of any rules made in this behalf by the High Court.

(*3*) The fee which a pleader is entitled to receive from his client when computed in accordance with the rules in Schedule III, and except when otherwise agreed between the pleader and the client, the fee which a pleader is entitled to receive under sub-section (*1*), is payable in respect of the pleader's services until the final decree or order in the proceeding is passed.

When fees of two pleaders may be taxed.

20. (*1*) Where a party has, before the first hearing of a proceeding, engaged more than one pleader, the fees of two pleaders may be taxed in

the bill of costs in the following cases :—

(*a*) in any original suit, of which the amount or value of the subject matter exceeds Rs. 5,000, in any court subordinate to the High Court ;

(*b*) in any contested proceeding under the Indian Succession Act, 1865, the [2]Probate and Administration Act, 1881, or the [3]Land Acquisition Act, 1894, of which the amount or value of the subject matter exceeds Rs. 5,000, in any court subordinate to the High Court ; X of 1865. V of 1881. I of 1894.

(*c*) in any appeal to the High Court from a decree deciding on the merits any suit or any contested proceeding of the kind referred to in clause (*a*) or clause (*b*) ;

(*d*) in any suit of which the amount or value of the subject matter is less than Rs. 5,000, where the court certifies by order in writing that the fees of two pleaders may be taxed :

Provided that nothing in this section shall affect suits or appeals by paupers, or suits or appeals governed by the [4]Dekkhan Agriculturists Relief Act, 1879. Bom. Act XVII of 1879.

(2) Except in the cases specified in this section, a party employing more than one pleader shall not be entitled to recover from his adversary more than one set of pleader's fees.

Cases where there are several parties having the same interest or putting forward the same defence.

21. Where in any proceeding there are several parties having the same interests or putting forward the same defence they shall not, if awarded costs, be allowed more than one set of pleaders' fees on party and party taxation unless the Court otherwise directs.

Taxation of costs in appeals to High Court.

22. In any civil appeal or application to the High Court from the decree or order of a court, subordinate to the High Court, if costs between party and party are awarded by the High Court, such costs shall be taxed by an officer of the High Court and included in the bill of costs attached to the decree or order of that Court in the prescribed manner.

Taxation of costs in mufassal courts.

23. In any court subordinate to the High Court situate elsewhere than in the City of Bombay, the amount of the pleader's fee to be taxed in the bill of costs attached to the decree or order of that Court shall not be in excess of the amount computed in accordance with the rules in Schedule III :

---

[1] General Acts, Vol. I.
[2] General Acts, Vol. III.
[3] General Acts, Vol. IV.
[4] Vol. I of this Code.

Provided that nothing in this section shall apply to bills of costs framed under the provisions of the [1]Indian Companies Act, 1913. VII of 1913.

24. The High Court may suspend or remove from practice a pleader who has been convicted by any criminal court in British India of a criminal offence implying a defect in his character which in the opinion of the High Court renders him unfit to be a pleader. Suspension or removal of pleader by High Court on conviction of criminal offence.

25. On the application of the Government Pleader in the High Court, or on a report from a District Court or Court of Session, or from the Chief Judge of the Court of Small Causes of Bombay, or from the Chief Presidency Magistrate for Bombay, or otherwise, the High Court may suspend or remove from practice, or may fine or reprimand, a pleader on reasonable cause. Punishment of pleader by High Court for improper conduct.

26. Where it appears to a District Court or Court of Session or to the Chief Judge of the Court of Small Causes of Bombay, or to the Chief Presidency Magistrate for Bombay, that a pleader has been guilty of neglect of duty or of a violation of any of the provisions of this Act or of any other improper conduct, such court may hold an inquiry regarding such conduct and report the result of such inquiry to the High Court. Powers of District Court or Court of Session in respect of improper conduct of pleader.

27. (*1*) Where any case under section 24, section 25 or section 26 is heard by the High Court, the Advocate General or such counsel or pleader as may appear for the Crown shall argue the case against the pleader against whom the allegation is made, and such pleader may appear in person or by counsel or pleader. Conduct of case in High Court against pleader.

(*2*) In any such case the High Court may make such order as to costs as it thinks fit.

28. Nothing in this Act shall be deemed to preclude any party from taking any legal proceedings in respect of any loss or injury sustained by him in consequence of the act or omission of any pleader engaged by him. Legal proceedings against pleaders not affected.

29. A pleader whose bill of cost has been taxed may apply to the Court by which or by whose officer the same has been taxed, for an order against his client for the sum allowed on taxation or such sum as may remain due The Court may make such order or may refer the pleader to a suit. Recovery of taxed fees.

Any such order may be executed under order 21 of the [2]Code of Civil Procedure, 1908, as a decree for money. V of 1908.

30. In every matter in which costs are due to a pleader by his client which have been or are capable of being taxed the pleader shall as against Lien for taxed fees.

---

[1] General Acts, Vol. VII.

[2] General Acts, Vol. VI.

his client be entitled to a lien for the amount of such costs, as taxed, upon—

(*a*) all documents come into his possession in the course of his engagement in connection with such matter, and for which he has given a receipt in accordance with the provisions of section 13 (*a*) and

(*b*) all movable property recovered or preserved by his exertions in such matter.

Rules.

31. (*1*) The High Court may make rules consistent with the provisions of this Act—

(*a*) prescribing the qualifications and mode of admission of pleaders and the fees payable for admission;

(*b*) prescribing the fees payable in respect of examinations (if any) held for the office of pleader;

(*c*) regulating, and providing for the recognition of, bar associations and for granting sanction to the rules of such associations;

(*d*) requiring that a pleader shall be a member of, and submit to the rules of, a bar association;

(*e*) requiring that a pleader shall be a member of, and subscribe to, the law library attached to the principal Court in which he practices;

(*f*) providing for the taxation of costs between party and party;

(*g*) providing for the allowance and taxation of costs between pleader and client whether in litigious or non-litigious business;

(*h*) prescribing, in lieu of the forms in Schedule II, the form of sanad to be given to pleaders and the form of vakalatnamas;

(*i*) prescribing, in lieu of or in addition to the rules in Schedule III, the manner in which the pleader's fee shall be computed, and the amount of the pleader's fee, and determining the amount or value of the subject matter in particular classes of cases or in cases generally, for the purpose of calculating the pleader's fee;

(*j*) prescribing the manner in which costs in appeals or applications to the High Court from decrees or orders of courts subordinate to the High Court shall be taxed, in cases where costs between party and party are awarded by the High Court;

(*k*) fixing the scale of costs which may be awarded in cases under sub-section (*2*) of section 27;

(*l*) generally, to give effect to such provisions of this Act as may require to be provided for by rules.

(2) Where the High Court prescribes any new forms in lieu of the forms in Schedule II, or makes any new rules in lieu of or in addition to the rules in Schedule III, such new forms or rules respectively shall on publication be deemed to be enacted in such Schedule in lieu of or in addition to the forms or rules now therein enacted.

(3) All rules made under this Act shall be published in the Bombay Government Gazette and shall thereupon have effect as if enacted in this Act.

32. Nothing in this Act shall be deemed to limit or otherwise affect the powers conferred upon the High Court by sections 106 and 107 of the Government of India Act, 1915, or by clauses 9 and 10 of the Letters Patent or by any law for the time being in force. Savings.

5 and 6, Geo. 5, c. 61.

33. Nothing in this Act regarding the appointment, appearance or remuneration of pleaders or the taxation of costs shall apply in respect of any proceedings pending in any court at the commencement of this Act, and all such proceedings, until their final disposal by the court in which they are pending, shall be governed, in respect of such matters, by the laws and rules in force immediately before the commencement of this Act. Pending cases.

34. The enactments mentioned in Schedule I are hereby repealed to the extent specified in the third column thereof. Repeal.

SCHEDULE I.

(*See section 34.*)

No. and date of enactment.	Title.	Extent of repeal.
Bombay Regulation II of 1827.	A Regulation for defining the constitution of the Courts of Civil Justice and the Powers and Duties of the Judges and Officers thereof.	So much as has not already been repealed, excepting the part of section 21 which prohibits interference of the civil courts in caste questions.
Act I of 1846	An Act for amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole, excepting section 5.
Act XX of 1853	An Act to amend the law relating to Pleaders in the Courts of the East India Company.	Section 2.